

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

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JULY 31 2009
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Respondent,)	2 CA-CR 2009-0060-PR
)	DEPARTMENT A
v.)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
JOSE ACENCION LEON,)	Rule 111, Rules of
)	the Supreme Court
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20023739

Honorable John E. Davis, Judge

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

Robert J. Hirsh, Pima County Public Defender
By David J. Euchner

Tucson
Attorneys for Petitioner

H O W A R D, Chief Judge.

¶1 In this petition for review, petitioner Jose Acencion Leon challenges the trial court's denial of the petition for post-conviction relief he filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless we find the trial court clearly abused its discretion. *State v. Mata*, 185 Ariz. 319, 331, 916 P.2d 1035, 1047 (1996).

¶2 In September 2003, a jury found Leon guilty of four dangerous crimes against children: child molestation, sexual conduct with a minor under fifteen years of age, and two counts of sexual abuse of a minor under fifteen years of age. The trial court sentenced him to a combination of concurrent and consecutive prison terms totaling a minimum of thirty years' incarceration. This court upheld his convictions on appeal and affirmed all but one of his sentences. *State v. Leon*, No. 2 CA-CR 2004-0074 (memorandum decision filed May 5, 2005). His subsequent resentencing on the sexual conduct charge in March 2006 reduced the total length of his imprisonment to twenty-three years.

¶3 Also in March 2006, Leon filed a notice of post-conviction relief, and the trial court appointed counsel. In the lengthy petition for post-conviction relief that followed in May 2008, Leon asserted six separate claims of ineffective assistance by his retained trial counsel as well as two claims of newly discovered evidence. The trial court found one of Leon's ineffective assistance claims sufficiently colorable to warrant an evidentiary hearing. It also heard arguments from counsel about whether the scope of the hearing should additionally include the first of Leon's two claims of newly discovered evidence, ultimately concluding that issue did not merit a hearing. After an evidentiary hearing in October 2008

at which both Leon and trial counsel testified, the court denied relief in a detailed minute entry ruling. The court also denied Leon's subsequent motion for reconsideration, and this petition for review followed.

¶4 Leon's petition for review mirrors his petition for post-conviction relief below, adding little of substance to support his assertion that the trial court ruled incorrectly. Because we are satisfied with the court's identification, analysis, and resolution of Leon's various claims, we see no need to repeat, parse, or elaborate on its ruling. *See generally State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court has correctly identified and ruled on issues raised "in a fashion that will allow any court in the future to understand the resolution[, n]o useful purpose would be served by this court['s] rehashing the trial court's correct ruling in a written decision"). Consequently, although we grant the petition for review, we find no abuse of the trial court's discretion and thus deny relief.

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

PHILIP G. ESPINOSA, Presiding Judge

JOHN PELANDER, Judge